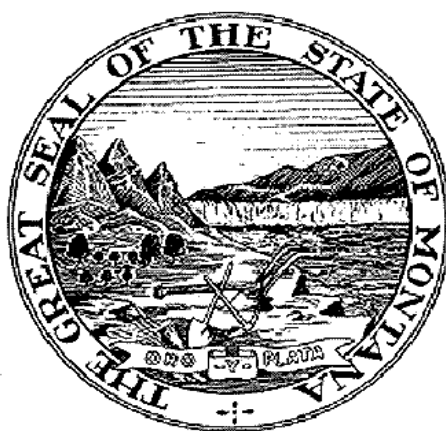


The Evaluation Report

A Special Educator's Guide to the Evaluation Report Process



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This guide is intended to help special education teachers with developing and writing Evaluation Plans. The guide is not intended to answer every possible question regarding Evaluation Plans, but to provide answers and examples for general questions about the evaluation process and forms.

This guide was updated in June 2008 to reflect changes in the reauthorization of IDEA 2004.

If you have questions regarding the evaluation process after reviewing this guide, please contact the Division of Special Education at 444-5661.

Comments, additional questions or suggestions regarding this guide may be sent to:

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Evaluation Report Guide Changes
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Please visit our Web site at:

www.opi.mt.gov/SpecEd/

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Common Questions About the Evaluation Process

Following some of the questions are references to federal (CFR) and/or state (ARM) rules and regulations that you should review for more detailed information.

1. What notice must be provided to parents prior to an evaluation meeting?

Written notice (*Procedural Safeguards in Special Education*) must be given to parents a reasonable time before the school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE (Free Appropriate Public Education) to the child. The contents of this notice must meet certain requirements. The OPI form, *EVALUATION PLAN: Notice of Intent to Conduct an Evaluation or Reevaluation and Permission for Evaluation or Reevaluation*, meets the requirements and serves as written notice to parents.

CFR 300.503 Prior notice by the public agency; content of notice.

2. How soon before the evaluation meeting must written notice be given?

Written notice must be given to the parents of a child with a disability a reasonable time before an evaluation meeting. Although the phrase “reasonable time” is not defined in rule, the district is responsible for notifying parents of the meeting early enough to ensure that they will have an opportunity to attend and to schedule the meeting at a mutually agreed on time and place.

CFR 300.503 Prior notice by the public agency; content of notice.

CFR 300.322 Parent participation.

3. When must the district provide parents with a copy of the pamphlet, Procedural Safeguards in Special Education?

- At least once per year
- Upon initial referral or parental request for evaluation
- Upon request by a parent
- Upon the first occurrence of the filing of a complaint with the OPI

4. Must the EVALUATION PLAN be completed and signed by the parent for a reevaluation if the district will use only information it already possesses (such as grades or individual student results on districtwide assessments) in determining the student's continuing eligibility?

The district is not required to obtain informed consent from a parent if the district will be reviewing only existing evaluation data about the child and the child's classroom-based performance. The district, however, must give written notice ([Evaluation Plan](#)) regarding its proposal to change the identification, evaluation, or educational placement of the child.

CFR 300.503 Prior notice by the public agency; content of notice.

5. Who is considered to be a “parent”?

A “parent” is defined as:

- a biological or adoptive parent of a child;
- a guardian, but not the state if the child is a ward of the state;
- a person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or
- a surrogate parent who has been appointed in accordance with CFR 300.519; or
- a foster parent.

The biological or adoptive parent is presumed to be the parent unless such parent does not have legal authority to make educational decisions.

If a judicial order identifies a specific person (one who qualifies for surrogate appointment) to act as parent to make educational decisions for the child, that person or persons shall be determined to be parent(s) for the child. A judicial order which identifies only an agency or organization is not sufficient to allow any representative of that agency/organization to act as the parent.

CFR 300.30 Definition of parent.

CFR 300.519 Surrogate parents.

6. Is parental consent for evaluation required for “screenings”?

No. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not an evaluation for eligibility for special education and related services.

CFR 300.302 Screening for instructional purposes is not evaluation.

7. What does a school district do if a parent refuses consent to an initial evaluation?

If, in the opinion of the school district, the provision of special education services is necessary for the child to receive a free appropriate public education, the school district may pursue mediation or due process to obtain consent. If the district does not pursue the evaluation it is not in violation of child find responsibilities. Contact the OPI Early Assistance Program at 444-5664.

CFR 300.300 Parental consent.

8. Does the district continue with existing services if the parent refuses consent to a reevaluation?

The special education and related services, accommodations, and modifications, and supplementary aids and services that make up the student's IEP would continue until the Evaluation Team determines that the student no longer is an IDEA-eligible student with a disability or no longer needs special education and related services. The district may attempt informal procedures to convince the parent of the need for the reevaluation or file a due process request to obtain permission to evaluate.

9. What must the district do if a parent requests that their child no longer receives special education services?

The removal of a student from special education is a decision for the Evaluation Team based on evidence from the team's review of existing evaluation data and other assessments conducted by the team that allows the team to determine that the student no longer has an IDEA disability or no longer needs special education and related services. Neither a parent nor any other member of the Evaluation Team may unilaterally change the identification of an eligible student with disabilities.

If a parent wants to remove their student from special education eligibility and services, the district must attempt to convince the parent of the value of special education and related services. The district may choose to file for due process or another dispute resolution procedure. If the parent still does not want their student to receive special education and related services, the district must notify the parent in writing that the district can provide special education and related services to the enrolled student at any time the parent reconsiders their decision. The district must also notify the parent that the procedural safeguards guaranteed under the IDEA are no longer available to the parent and student. The district must have documentation that the parents received the notification.

10. What does the school district do if the parent does not respond to a request for reevaluation?

Parental consent need not be obtained to conduct a reevaluation if the school district can demonstrate that it has taken reasonable measures to obtain that consent and the student's parent has failed to respond. The district must have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits.

CFR 300.322 Parent participation.

CFR 300.300 Parental consent.

11. Is there a timeline for the initial evaluation of a student?

Yes. The eligibility team must determine if the student is a child with a disability within 60 calendar days of receiving parental consent for an initial evaluation. The district documents the date upon which it received the signed Evaluation Plan: Notice of Intent to Conduct an Evaluation or Reevaluation and Permission for Evaluation or Reevaluation form. The 60-day timeline does not apply if the parent repeatedly fails or refuses to produce the child for evaluation.

12. If the parent repeatedly fails or refuses to produce the child for evaluation are there further actions which must be taken by the district?

No. However, the district should maintain documentation of attempts made to conduct the evaluation.

13. How “current” must classroom-based assessments and observations be for reviewing existing evaluation data?

Best practice is that the information is no more than one-year old.

14. Which assessments are required for an initial evaluation?

The requirements for evaluation differ by disability and are outlined in the criteria for each disability. The Montana administrative rule for each category of disability can be found on page 19 and the Eligibility Criteria Checklists can be found on page 44.

CFR 300.304 Evaluation procedures.

CFR 300.305 Additional requirements for evaluations and reevaluations.

CFR 300.306 Determination of eligibility.

ARM 10.16.3321 Comprehensive educational evaluation process and reevaluations.

15. What are the "essential components of reading instruction"?

The term "essential components of reading instruction" means explicit and systematic instruction in:

- phonemic awareness;
- phonics;
- vocabulary development;
- reading fluency, including oral reading skills; and
- reading comprehension strategies.

CFR 300.306 Determination of eligibility.

16. Which assessments are required for a reevaluation?

For reevaluations, the IEP team shall review existing evaluation data on the student, including evaluations and information provided by the parents of the student; current classroom-based assessments and observations, which include the student's involvement and progress in the general curriculum; and observations by teachers and related services providers.

On the basis of the review and input from the child's parents, the IEP team shall identify what additional data, if any, are needed.

CFR 300.305 Additional Requirements for evaluations and reevaluations.

ARM 10.16.3321 Comprehensive educational evaluation process and reevaluations.

17. Can an evaluation report document information on assessments and implications by stating, "See previous report/eligibility determination?"

No. All assessments and implications must be summarized within or attached to the current evaluation report.

18. When a student is reevaluated must he or she meet the initial criteria for having a disability?

No. For a reevaluation, the Evaluation Team must document that the student continues to have a disability and needs special education and related services. A statement such as, "Kevin continues to have a learning disability/cognitive delay," is sufficient when completing the Disability Criteria portion of the Evaluation Report for a reevaluation.

CFR 300.305 Additional requirements for evaluations and reevaluations.

19. If a student who has previously been exited from special education is newly evaluated for special education eligibility, should the evaluation be conducted as an initial evaluation or a reevaluation?

If the evaluation report, which previously exited the student from special education services, states that the student was no longer eligible for special education and related services under IDEA because the student no longer met the disability criteria, then the evaluation must be conducted as an initial evaluation and address the results of evaluations in all areas related to the suspected disability.

If the evaluation report, which previously exited the student from special education services, states that the student was no longer eligible for special education and related services under IDEA because the student no longer demonstrated the need for special education, then the evaluation must be conducted as a reevaluation. The evaluation should be sufficient enough in scope to provide the documentation necessary for the Evaluation Team to make its decisions.

If a copy of the evaluation report, which previously exited the student from special education services, is not available, then the evaluation must be conducted as an initial evaluation.

ARM 10.16.3321 Comprehensive educational evaluation process and reevaluations.

20. What decisions are the Evaluation Team required to make?

The responsibility of the Evaluation Team is to determine:

- the present levels of performance and educational needs of the child;
- whether the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs;
- whether the student has a disability which adversely affects the student's involvement and progress in the general curriculum;
- whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services;
- whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general curriculum; and
- eligibility of the student for special education and related services.

ARM 10.16.3321 Comprehensive educational evaluation process and reevaluations.

CFR 300.533 Determination of needed evaluation data.

21. Who are the required members of the Evaluation Team which make the initial identification of disability and need for special education services?

- The parent(s) of the child;
- Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- Not less than one special education teacher of the child or, if appropriate, at least one special education provider of the child;
- If the student is being evaluated for a specific learning disability, at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.
- An administrator or designee who -
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the regular curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the public agency.
- An individual who can interpret the instructional implications of evaluation results, who may be one of the described members of the team;
- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- The student, if appropriate.

The following specialists are also required for the initial evaluation only.

REQUIRED FOR INITIAL EVALUATION	L D	C D	S I	E D	H I	T B	D E	D B	A U
School Psychologist	X*	X		X		X			X
Speech-language Pathologist	X*		X		X	X	X	X	X
Audiologist					X		X		

* A required team member for the determination of a learning disability must be a school psychologist, speech-language pathologist or a remedial reading teacher, each of whom is qualified to conduct individual diagnostic examinations of children.

ARM 10.16.3321 Comprehensive Educational Evaluation Process And Reevaluations.

22. What if the parent doesn't attend the initial meeting to determine eligibility?

A meeting may be conducted without a parent in attendance if the district is unable to convince the parents that they should attend. In this case, the district must keep a record of its attempts to arrange a mutually agreed on time and place. Such a record would include detailed records of telephone calls made or attempted and the results of those calls, and copies of correspondence sent to the parents and any responses received; as well as other detailed records of visits made to the parent's home or place of employment and the results of those visits.

CFR 300.322 Parent participation.

23. Who is required to be at the reevaluation meeting that determines continued eligibility and need for special education services?

The IEP team - the parent(s) of the student, the student (when appropriate), an administrator or designee, a general education teacher if the student is/may be participating in general education environment, at least one special education teacher or, if appropriate, special education provider, at least one teacher or other specialist with knowledge in the area of suspected disability (this individual may already be a member of the team) and other individuals who have knowledge or special expertise regarding the student, such as a school psychologist or speech and language pathologist.

ARM 10.16.3321 Comprehensive Educational Evaluation Process And Reevaluations.

24. Who is required to participate in the meeting when the Evaluation Team is considering changing or adding a category of disability for a student who is currently identified?

The IEP team members and those additional Evaluation Team members who are required for an initial evaluation in the category of disability in which the student may be newly identified.

ARM 10.16.3321 Comprehensive Educational Evaluation Process And Reevaluations.

25. When a student transfers within Montana, must the receiving district conduct a reevaluation to determine if the student continues to be eligible for special education services?

No. A student who is identified in Montana remains eligible for special education and related services until an Evaluation Team determines the student is no longer eligible.

26. What must the new school district do when an IDEA-eligible student from another state enrolls with a current IEP and documentation of eligibility from the previous state?

The new school district must continue to provide a free appropriate public education, including providing services comparable to those services in the student's existing IEP. The school district, in conjunction with the parents, then must either amend the IEP or develop a new IEP within a short period of time (normally within one week). The Amendment of Current IEP form should be used to adopt or amend the IEP.

The new school district must then decide if it is necessary to conduct an evaluation to determine if the child is eligible as a student with a disability under the eligibility criteria established by Montana administrative rules. This determination can be documented on the Transfer Student Documentation form.

If the new school district determines that an evaluation is necessary, the evaluation is considered an initial evaluation which requires informed parental consent.

CFR 300.323 When IEPs must be in effect.

27. Is an Evaluation Meeting required prior to graduation from high school?

No.

CFR 300.305 Additional requirements for evaluations and reevaluations.

28. Is a district required to conduct an evaluation if the evaluation is not necessary to determine continued eligibility under IDEA but will be used to determine eligibility for post-school services (Developmental Disabilities, Vocational Rehabilitation, etc.)?

No.

29. Is an Evaluation Team meeting necessary to add or end a related service such as speech/language?

No. The IEP team needs to document that the student no longer needs the related service in order to benefit from special education. This could be done with an IEP Amendment.

30. Is an Evaluation Team meeting required to exit a student from special education?

Yes. A student may be exited from special education only after an Evaluation Team has determined that either the student no longer has a disability and/or the student no longer needs special education services. The Evaluation Team must reevaluate the student before determining that the child is no longer a child with a disability or no longer needs special education and related services. Exiting from all special education services is an Evaluation Team decision and cannot be done by an IEP Amendment.

CFR 300.303 Reevaluations.

CFR 300.304 Evaluation procedures.

CFR 300.305 Additional requirements for evaluations and reevaluations.

CFR 300.306 Determination of eligibility.

CFR 300.308 Additional group members.

Common Questions About the Evaluation Report

EVALUATIONS AND INFORMATION PROVIDED BY THE PARENT(S) AND/OR STUDENT

Parent Comments: _____

Student Comments: _____

Implications/Instructional Strategies for Educational Planning: _____

31. What should be recorded for Parent or Student Comments if the parents or student do not attend the Evaluation Meeting?

If the parent or student does not attend the meeting, information that has been gathered specifically for the Comments section from the parent or student should be included. If the parents or student do not attend the meeting this should be noted in the Comments section by a statement such as, "Parent/student not present." If they attend the meeting but have no comments a statement such as, "The parent and/or student choose not to comment at this time" should be entered in this area.

ASSESSMENT AREAS

Assessment results, including implications for educational planning, may be summarized or attached as written reports.

Summarized

Attached

☐☐

Academic Achievement

☐☐

Assistive Technology/Services

☐☐

Behavioral

☐☐

Classroom-Based Assessment*

☐☐

Communication

☐☐

Developmental

☐☐

Functional Behavior Assessment

Summarized

Attached

☐☐

Observations*

☐☐

Physical

☐☐

Psychological

☐☐

Social/Emotional

☐☐

Transition

☐☐

Other: _____

* Required

32. If we check "Attached," must a report be attached to the Evaluation Report or can it be placed in the special education record?

If the Evaluation Report indicates that a report or any additional information is attached, these documents must be physically attached to and accompany each copy of the Evaluation Report.

33. Can "Observations" be included in the classroom-based assessment or psychological report or must "Observations" be written in a separate report?

Observations may be included in the classroom-based assessment, the psychological report or may be written in a separate report. When included in another report, observations should be

clearly identified as such. In all instances, "Observations" must include implications for educational planning in terms understandable to all team members.

34. Are observations required for both initial and reevaluation determinations of eligibility?

Yes.

35. What are "observations by teachers and related service providers?"

Observations are staff's objective impressions that document the student's overall functional, behavioral and academic progress during the school year. These observations do not have to be a "snapshot" of the student's behavior on a particular date and time.

36. Who can conduct the "Observation" of the student?

Any member of the Evaluation Team may conduct the observations. However, for a student suspected of having a specific learning disability the observation may also be conducted by a remedial reading teacher. In the case of a student of less than school age or out of school, a team member must observe the student in an environment appropriate for a student of that age.

CFR 300.310 Observation.

ARM 10.16.3321 Comprehensive Educational Evaluation Process And Reevaluations.

37. Who can conduct the "Observation" of the student who is preschool-age, or is enrolled in a private school?

Any member of the Evaluation Team may conduct the observations. For a preschool-age student, a classroom setting may be the child's home or child care environment. For a student attending a private school, a representative of the private school who participates at the Evaluation Team meeting could conduct the observation, or another member of the Evaluation Team could observe the student in the private school setting.

ELIGIBILITY DETERMINATION

Student **IS** eligible for special education and related services under the Individuals with Disabilities Education Act. Basis for making the determination that the student has a disability and needs special education and related services:

Disability criteria: _____

☐ Criteria Checklist Attached

Why does the student need special education and related services? _____

38. If the Evaluation Team completes and attaches to the Evaluation Report a copy of the Disability Criteria Checklist, must the "Disability Criteria" section be completed?

No. However, it should be noted in this section that the Criteria Checklist(s) is attached.

39. Can a student meet disability criteria, but still not need special education services?

Yes. If the Evaluation Team determines that the disability does not adversely affect the student's educational performance, then the student does not need special education, and is not eligible under the IDEA.

CFR 300.8 Child with a disability.

Disability Categories (check all that apply):

- | | | |
|--|---|---|
| <input type="checkbox"/> Autism | <input type="checkbox"/> Deafness | <input type="checkbox"/> Other Health Impairment ² |
| <input type="checkbox"/> Developmental Delay | <input type="checkbox"/> Emotional Disturbance | <input type="checkbox"/> Specific Learning Disability |
| <input type="checkbox"/> Cognitive Delay | <input type="checkbox"/> Hearing Impairment | <input type="checkbox"/> Speech Language Impairment |
| <input type="checkbox"/> Deaf-Blindness | <input type="checkbox"/> Orthopedic Impairment ¹ | <input type="checkbox"/> Traumatic Brain Injury |
| | | <input type="checkbox"/> Visual Impairment |

¹ Medical report required (diagnosis of orthopedic impairment by a qualified medical practitioner)

² Medical report required (medical diagnosis of chronic or acute health problem)

40. For a student who meets the criteria for more than one category of disability, should the student be identified in only one category of disability?

A student should be identified in each category of disability for which the student meets the disability criteria and needs special education and related services.

Recommendations for consideration by the IEP team:

Special Education Services

- | | | |
|---|--|---|
| <input type="checkbox"/> Adapted Physical Education | <input type="checkbox"/> Math | <input type="checkbox"/> Speech/Language |
| <input type="checkbox"/> Assistive Technology | <input type="checkbox"/> Reading | <input type="checkbox"/> Transition |
| <input type="checkbox"/> Braille Instruction | <input type="checkbox"/> Self-Help/Independence | <input type="checkbox"/> Travel Training |
| <input type="checkbox"/> Career/Vocational | <input type="checkbox"/> Sensory-Motor | <input type="checkbox"/> Written Expression |
| <input type="checkbox"/> Communication | <input type="checkbox"/> Social/Emotional/Behavioral | |

41. When is "Speech/Language" a special education service and when is it a related service?

The term "special education" means specially designed instruction to meet the unique needs of a child with a disability. The term "related service" means developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. If "Speech/Language" is required to assist a child with a disability to benefit from special education, it would be identified as a related education service. If "Speech/Language" is the sole special education service, it is considered the special education service. Speech and language pathology services are special education services when they are the only services identified on the IEP.

CFR 300.34 Related services.

CFR 300.39 Special education.

42. What is the difference between the special education services of “Communication” and “Speech-language pathology”?

“Communication” includes the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

“Speech-language pathology” services include identification of children with speech or language impairments; diagnosis and appraisal of specific speech or language impairments; referral for medical or other professional attention necessary for the rehabilitation of speech or language impairments; provision of speech and language services for the habilitation or prevention of communicative impairments; and counseling and guidance of parents, children, and teachers regarding speech and language impairments.

CFR 300.34 Related services.

CFR 300.324 Development, review, and revision of IEP.

CFR 300.8 Child with a disability.

CFR 300.34 (15) Related services.

43. If a recommended special education service area is checked by the Evaluation Team, must it be addressed in that student’s Individualized Education Program?

Yes. The IEP should either address the service area in the IEP document or provide documentation in the IEP Notes as to why that service area will not be addressed.

Related Services

- | | | |
|--|---|---|
| <input type="checkbox"/> Assistive Technology | <input type="checkbox"/> Orientation and Mobility | <input type="checkbox"/> School Health/Nurse Services |
| <input type="checkbox"/> Audiology | <input type="checkbox"/> Parent Counseling and Training | <input type="checkbox"/> Social Work in Schools |
| <input type="checkbox"/> Counseling | <input type="checkbox"/> Physical Therapy | <input type="checkbox"/> Speech/Language |
| <input type="checkbox"/> Early Identification/Assessment | <input type="checkbox"/> Psychological | <input type="checkbox"/> Therapeutic Recreation |
| <input type="checkbox"/> Medical (diagnostic) | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Occupational Therapy | <input type="checkbox"/> Rehabilitation Counseling | <input type="checkbox"/> Other: _____ |

44. What is “Parent Counseling and Training”?

Parent counseling and training means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

CFR 300.34 Related services.

45. Can a student qualify for services under IDEA if they need only a related service?

No.

CFR 300.8 Child with a disability.

DOCUMENTATION—if not eligible

Student **IS NOT** eligible for special education and related services under the Individuals with Disabilities Education Act for the following reason(s):

- | | |
|--|---|
| <input type="checkbox"/> Does not meet disability criteria | <input type="checkbox"/> Lack of instruction in reading or math |
| <input type="checkbox"/> Does not demonstrate need for special education | <input type="checkbox"/> Limited English proficiency |

Discussion: _____

Recommendation for accommodation or referral for other services as appropriate: _____

46. What does a “lack of instruction in reading or math” mean?

A "lack of instruction" means that the student has not received explicit and systematic instruction in phonemic awareness; phonics; vocabulary development; reading fluency, including oral reading skills; and reading comprehension strategies and or access to state content standards.

CFR 300.306 Determination of eligibility.

The following persons, as indicated by their signatures, have participated in the development of this Evaluation Report. The public agency shall give the parent a copy of the child's Evaluation Report at no cost to the parent.

47. Does signing the Evaluation Report indicate that each signer is in agreement with decisions made by the team?

No. Members sign the document only to verify that they have participated in the meeting.

300.300 Parental consent.

48. If parents or other required members of the Evaluation Team are unable to participate in a meeting in person, can other methods be used to ensure their participation?

Yes. Other methods may include individual or conference telephone calls, or video conferencing. It should be documented in the Notes that the person participated by phone or other means. When that person is provided with a copy of the Evaluation Report, they can sign and return an additional copy of the signature page as a means of documenting their participation.

CFR 300.322 Parent participation.

49. If a student identified as having a specific learning disability and needing special education services in reading is assessed at a later date as also needing special education services in math, must the Evaluation Team reconvene to document that the student now needs additional special education services in the area of math?

No. The IEP team may develop IEP goals and objectives in the area of math, noting the student's current level of performance and need for special education services in this area. At the student's next Evaluation meeting, the team can identify the areas in which the student needs

individually designed instruction. The additional services could be added and explained by an *Amendment to the IEP* form.

Common Questions Regarding Eligibility Criteria

50. If a student has been diagnosed as having Aspergers Syndrome, must he or she still meet the special education criteria for a student having autism?

Yes. To be eligible under IDEA, the student must meet the criteria for a disability category(ies) as defined in the Administrative Rules of Montana and need special education and related services. Neither federal nor Montana regulations refer to the term "Aspergers."

ARM 10.16.3011 Criteria for autism.

ARM 10.16.3018 Criteria For Identification Of Student As Having Other Health Impairment.

51. If a student has received a medical diagnosis of Attention Deficit Disorder does that student automatically qualify for special education services?

No. The student must still meet the criteria for a disability category(ies) as defined in the Administrative Rules of Montana and need special education and related services.

ARM 10.16.3018 Criteria For Identification Of Student As Having Other Health Impairment.

52. The criteria for the disability of Other Health Impairment states that a "medical diagnosis" of a chronic or acute health problem is required to initially determine that the student is Other Health Impaired. Who can make this medical diagnosis?

The medical diagnosis may only be made by a person who has been licensed or approved by the Board of Medical Examiners and/or Board of Nursing to provide medical services that include diagnosis. These individuals are physicians, physician-assistants, podiatrists, dentists, and nurse practitioners. The Office of Public Instruction has determined that a copy of a medical report establishing the diagnosis of a chronic or acute health problem must be attached to the initial evaluation report.

ARM 10.16.3018 Criteria for identification of a student as having other health impairment.

53. Must the medical diagnosis be "updated" for each reevaluation for that student?

No. The medical diagnosis is required only for the initial determination that the student is a student with an other health impairment.

54. Is a referral required to evaluate an eligible student for an additional category of disability?

No. Once the student has had an initial evaluation and been determined to be a student with a disability, all subsequent eligibility determinations are reevaluations.

55. If an IDEA-qualified student is evaluated for identification in an additional category of disability must they meet the initial criteria for the additional disability?

Yes.

56. Must a student be identified as having a speech-language impairment for the IEP to provide speech and language pathology services?

No. An IEP may provide speech and language pathology services as a related service when the team determines that a student needs these services to receive a free appropriate public education.

57. Can a student identified as having a disability in speech-language receive special education services in reading or math or another service area?

Yes. The Evaluation Team and IEP Team must clearly document through assessment that the need for these additional services results from the student's speech-language difficulties.

58. Must the student be reevaluated once every three years?

Yes, unless the parent and district agree that a reevaluation is unnecessary.

59. How does the district document the agreement between it and the parent that a reevaluation is unnecessary?

The district may document this agreement in the IEP form on the Need For Reevaluation To Determine Eligibility or in the Notes. The district could use the Amendment of Current IEP form to document this agreement when the decision occurs outside of an IEP meeting.

60. Is a classroom-based assessment required for all preschool-aged students?

Yes. Classroom-based assessments are required for all initial evaluations and reevaluations regardless of age or placement. For a preschool-age student, a classroom setting may be the child's home or child care environment. Evaluation should include assessments of development, behavior and/or social skills that provide information about the student's performance as compared to same-age peers.

61. May a child younger than six be identified in a disability category other than developmental delay?

Yes. A 3-, 4-, or 5-year-old child could be identified under any disability category(ies).

62. Are there unique guidelines for determining the need for special education for children younger than kindergarten age?

No. The Evaluation Team must consider the student's need for adapted content of curriculum materials, modified teaching methods, and individualized instruction. The team must consider these factors as they relate to the unique needs of the student that result from the disability, the student's ability to progress through either the district's curriculum or an appropriate developmental curriculum, and the proficiency with which the student meets educational and developmental standards.

63. How have the criteria for specific learning disability changed?

The IDEA 2004 now allows a school district to use a Response to Intervention (RtI) approach or a severe discrepancy model as part of the evaluation procedure for determining that a student has a specific learning disability.

- 10.16.3019 Criteria For Identification Of Student As Having Specific Learning Disability.**
- 10.16.3019A Response To Scientific, Research Based Intervention In Learning Disability Identification.**
- 10.16.3019B Severe Discrepancy In Learning Disability Identification.**
- 10.16.3019C Documentation Requirements In Learning Disability Identification.**

64. Can a school district choose to use either the severe discrepancy or RtI methods to identify a child with LD?

Yes. The district must have a written policy regarding whether it will use RtI methods and/or severe discrepancy to identify a child as having a specific learning disability and when it will use which procedure.

65. Are there other allowed methods of identifying a specific learning disability besides the discrepancy or response to intervention models?

No.

- 10.16.3019 Criteria For Identification Of Student As Having Specific Learning Disability.**
- 10.16.3019C Documentation Requirements In Learning Disability Identification.**

66. What is Response to Intervention?

The term “Response to Intervention” is used to describe a systematic problem-solving process within a coordinated system of early intervening services that is designed to allow for early recognition of students’ difficulties and to provide for a data-based method for evaluating the effectiveness of the instructional approaches used. The focus in this process is on the instructional methodologies used rather than on identifying individual student differences. This approach relies on the use of scientific, research-based instructional practices and frequent assessments or probes to provide the data necessary to make decisions about student progress and the need for more intensive intervention. Generally, a three-tiered model is used to describe the level of intervention. Tier 1 instructional strategies or interventions are those used with an entire classroom or at a schoolwide level. Students for whom the assessment data show little or no growth at this level would then move to Tier 2. Tier 2 interventions are used with small groups of students who have similar instructional needs. Students who do not respond to the small group interventions move on to Tier 3 where they receive instruction designed to meet their specific individual needs.

67. What types of interventions are required?

The IDEA 2004 gives the school district the authority to “use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures” for determining whether a child has a specific learning disability. The IDEA does not further define standards for appropriate interventions.

There are some fundamental aspects of intervention design that are important to remember. First, data collection and analysis are critical components of all interventions. These data will allow the team to make a determination about which students need to move to a more intensive level of intervention, target specific skill deficits, and track student learning over time. For students with specific learning disabilities this data will provide the documentation that the interventions have not been effective. Second, well-designed interventions rely on proven instructional methodologies. Lastly, effective interventions are straightforward and can be implemented in the general education classroom. Interventions that are overly complex or require too much effort to maintain will not be implemented effectively and are not likely to produce improved learning on the part of the student. When this happens, it is not evidence that the student did not respond to the intervention, rather it merely shows that the intervention was not well designed.

68. What factors must the Evaluation Team consider when using the RtI method to identify a student as having a specific learning disability?

The Evaluation Team must identify the student as having a specific learning disability based on an insufficient response to scientific, research based interventions resulting in a low level of academic achievement. To do so the Evaluation Team must document that an insufficient response to interventions occurred when the student did not achieve adequately, despite the implementation of the interventions over a sustained period of time.

The team must document that scientific, research based interventions were matched to the specific needs of the student as identified through systematic, data-based processes for examining the presenting problem, including parental input on the problem, to identify instructional interventions that have a high likelihood of success. The documentation must also show that the interventions focused on changing the instructional strategies or techniques used with the student. The interventions must have been regularly monitored for student progress and correct implementation via regular and frequent data collection, and analysis and modification of interventions as necessary based on data analysis. The Evaluation Team must document that interventions were implemented by qualified personnel and compared the student's rate of learning and current levels of performance with the student's initial levels of performance.

A student may be determined to have a specific learning disability if the student is making sufficient response to scientific, research based interventions and the level of intervention necessary to sustain the response can only be provided through special education service.

- 10.16.3019 Criteria For Identification Of Student As Having Specific Learning Disability.**
- 10.16.3019A Response To Scientific, Research Based Intervention In LD Identification.**
- 10.16.3019B Severe Discrepancy In Learning Disability Identification.**
- 10.16.3019C Documentation Requirements In Learning Disability Identification.**

69. In what setting do the interventions occur?

Most of the activities involved in a response to intervention instructional model are implemented by regular educators and occur in the general education setting. The aim of this instructional model is to quickly identify those students who are not benefiting from the whole group instructional model and to implement instructional strategies which will facilitate their academic growth without removing them from the general education setting.

Administrative Rules of Montana (ARM) cited:

10.16.3011 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING AUTISM

(1) The student may be identified as having autism if documentation supports the existence of a developmental disability that was generally evident before the student was three years of age and if the student has communication difficulties in verbal and nonverbal communication and social interaction.

(2) Assessments shall document the presence of significant delays in verbal and nonverbal communication and social interaction.

(a) Significant delays in verbal communication are manifested by at least one of the following:

(i) delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime);

(ii) in students with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others.

(b) Significant delays in nonverbal communication are manifested by a marked impairment in the use of multiple nonverbal behaviors such as eye to eye gaze, facial expression, body postures, or gestures to regulate social interaction.

(c) Significant delays in social interaction are manifested by at least one of the following:

(i) failure to develop peer relationships appropriate to developmental levels;

(ii) lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., lack of showing, bringing or pointing out objects of interest);

(iii) lack of social or emotional reciprocity;

(iv) lack of varied, spontaneous, make-believe play or social imitative play appropriate to developmental level.

(3) Other characteristics often associated with autism may include restricted, repetitive and stereotyped patterns of behavior, interests and activities, as manifested by one or more of the following:

(a) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

(b) Apparently inflexible adherence to specific nonfunctional routines or rituals;

(c) Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements);

(d) Persistent preoccupation with parts of objects.

(4) A student who manifests the characteristics of autism after age three could be identified as having autism if the criteria in (2) and (3) are met.

(5) The student may not be identified as having autism if the student's educational performance is adversely affected primarily because the student has an emotional disturbance.

10.16.3018 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING OTHER HEALTH IMPAIRMENT

(1) The student may be identified as having other health impairment if:

(a) the student has limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition,

hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, or Tourette syndrome; and

(b) the condition adversely affects the student's educational performance.

(2) A medical diagnosis of a chronic or acute health problem is required.

10.16.3019 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING SPECIFIC LEARNING DISABILITY

(1) The student may be identified as having a specific learning disability if, when provided learning experiences appropriate to the student's age or grade-level based on state approved K-12 content standards:

(a) The student does not make sufficient progress to meet age or grade level based on state approved K-12 content standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem solving.

(b) Consistent with district procedures, evaluation teams shall use either response to scientific, research based intervention under ARM 10.16.3019A or severe discrepancy under ARM 10.16.3019B when determining whether the student is not making sufficient progress toward age or grade level based on state approved K-12 content standards.

(c) The student may not be identified as having a specific learning disability if the student's significantly low rate of progress in meeting age or grade level based on state approved K-12 content standards is primarily the result of a visual, hearing, or motor impairment; cognitive delay; emotional disturbance; environmental or economic disadvantage; cultural factors; or a lack of appropriate instruction.

10.16.3019A RESPONSE TO SCIENTIFIC, RESEARCH BASED INTERVENTION IN LEARNING DISABILITY IDENTIFICATION

(1) A student may be determined to have a specific learning disability based on an insufficient response to scientific, research based interventions resulting in a low level of academic achievement. Insufficient response to interventions occurs when, despite the implementation of the interventions over a sustained period of time, the student is not achieving adequately based on the student's age or grade level based on state approved K-12 content standards.

(a) Scientific, research based interventions are:

(i) matched to the specific needs of the student as identified through systematic, data-based processes for examining the presenting problem, including parental input, to identify instructional interventions that have a high likelihood of success;

(ii) focused on changing the instructional strategies or techniques used with the student; and

(iii) regularly monitored for student progress and correct implementation via regular and frequent data collection, and analysis and modification of interventions as necessary based on data analysis.

(b) In determining the response to scientific, research based interventions, the evaluation team must consider data regarding how appropriately the intervention was delivered by qualified personnel, as well as, data comparing the student's rate of learning and current levels of performance with the student's initial levels of performance.

(2) A student may be determined to have a specific learning disability if the student is making sufficient response to scientific, research based interventions and the level of intervention necessary to sustain the response can only be provided through special education services.

10.16.3019B SEVERE DISCREPANCY IN LEARNING DISABILITY IDENTIFICATION

(1) A student may be determined to have a specific learning disability based on a severe discrepancy between the student's intellectual ability and achievement in one or more of the areas listed in ARM 10.16.3019.

(a) A severe discrepancy is defined as a 50 percent or higher probability of a two standard deviation discrepancy between general cognitive ability and achievement in one or more of the areas identified in ARM 10.16.3019 when adjusted for regression to the population mean.

(b) Error in test measurement requires judgment for students who score near two standard deviations below the population mean. When exercising this judgment, consideration of additional information, such as classroom performance relative to the student's performance on norm referenced tests, shall be used as the basis for determining the severe discrepancy.

(c) Alternatives to norm referenced tests, such as curriculum-based assessments, shall be utilized to determine severe discrepancy whenever cultural factors, test conditions, size of test item sampling for the student's age, or other factors render standardized assessment results invalid. When utilizing alternative assessment procedures, a determination must still be made that a discrepancy between ability and achievement exists at a level of severity similar in size to the discrepancy that would have otherwise been found in (1)(a).

10.16.3019C DOCUMENTATION REQUIREMENTS IN LEARNING DISABILITY IDENTIFICATION

(1) Evaluation teams shall document evaluation team findings under ARM 10.16.3019A or ARM 10.16.3019B and:

(a) the student's academic performance in the regular classroom setting through observation.

(i) Requirements for documentation of observation may be met by observation of routine classroom instruction and monitoring of the student's performance that was done before the child was referred for an evaluation or have at least one member of the group described in 34 CFR 300.306(a)(1) conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with 34 CFR 300.300(a), is obtained.

(ii) In the case of a student of less than school age or out of school, a team member shall observe the student in an environment appropriate for a student of that age.

(b) educationally relevant medical findings, if any, that have been considered; and

(c) two or more interventions specific to the individual student. Interventions shall not unnecessarily delay appropriate identification.

(2) If the student has been evaluated under [NEW RULE VI], documentation must also include:

(a) the scientific, research based interventions and instructional strategies used; and

(b) the student centered data collected during the implementation of at least two intensive individualized interventions which have been implemented for a sustained period of time.

10.16.3321 COMPREHENSIVE EDUCATIONAL EVALUATION PROCESS AND REEVALUATIONS

- (1) An evaluation of the student must be conducted in accordance with the requirements of 34 CFR 300.301 through 300.311 and 34 CFR 300.321.
- (2) For initial evaluations, the evaluation report must include the information necessary to address criteria established in ARM 10.16.3010 through 10.16.3022.
- (3) The evaluation report shall include statements of implications for educational planning in terms understandable to all team members.
- (4) The evaluation report shall include a statement as to why the student needs special education and related services.
- (5) All evaluation reports will identify a disability category or categories for each student.
- (6) For an initial evaluation only, the following additional team members are required when a student is being evaluated in the specified category of disability: (a) emotional disturbance, traumatic brain injury specific learning disability, or cognitive delay requires a school psychologist; (b) speech-language impairment, deaf/blindness, traumatic brain injury requires a speech-language pathologist; (c) autism requires a school psychologist and speech-language pathologist; and (d) deafness or hearing impairment requires a speech-language pathologist or audiologist.

Code of Federal Regulations (CFR) cited:

CFR 300.8 Child with a disability. (reads in part)

(a) *General.* (1) *Child with a disability* means a child evaluated in accordance with §§ 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with § 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

CFR 300.30 Parent.

(a) Parent means--

(1) A biological or adoptive parent of a child;

(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;

(3) A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);

(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or

(5) A surrogate parent who has been appointed in accordance with §300.519 or section 639(a)(5) of the Act.

(b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the “parent” of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the “parent” for purposes of this section.

CFR 300.34 Related services. (reads in part)

(a) *General.* *Related services* means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic

recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

(8)(i) Parent counseling and training means assisting parents in understanding the special needs of their child;

(ii) Providing parents with information about child development; and

(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(15) Speech-language pathology services includes--

(i) Identification of children with speech or language impairments;

(ii) Diagnosis and appraisal of specific speech or language impairments;

(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;

(iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and

(v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

CFR 300.39 Special education.

(a) General. (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including--

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section--

(i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;

(ii) Travel training; and

(iii) Vocational education.

(b) Individual special education terms defined. The terms in this definition are defined as follows:

(1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) Physical education means--

(i) The development of-- (A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

(ii) Includes special physical education, adapted physical education, movement education, and motor development.

(3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction--

- (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.
- (4) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to--
 - (i) Develop an awareness of the environment in which they live; and
 - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
- (5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

CFR 300.300 Parental consent. (reads in part)

(a) Parental consent for initial evaluation.

- (1)(i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under §300.8 must, after providing notice consistent with §§300.503 and 300.504, obtain informed consent, consistent with §300.9, from the parent of the child before conducting the evaluation.
 - (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
 - (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.
- (3)(i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (including the mediation procedures under §300.506 or the due process procedures under §§300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.
 - (ii) The public agency does not violate its obligation under §300.111 and §§300.301 through 300.311 if it declines to pursue the evaluation.
- (4) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency--
 - (i) Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the public agency requests consent; and
 - (ii) Is not required to convene an IEP Team meeting or develop an IEP under §§300.320 and 300.324 for the child for the special education and related services for which the public agency requests such consent.

(c) Parental consent for reevaluations. (1) Subject to paragraph (c)(2) of this section, each public agency--

(i) Must obtain informed parental consent, in accordance with §300.300(a)(1), prior to conducting any reevaluation of a child with a disability.

(ii) If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in paragraph (a)(3) of this section.

(iii) The public agency does not violate its obligation under §300.111 and §§300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.

(2) The informed parental consent described in paragraph (c)(1) of this section need not be obtained if the public agency can demonstrate that--

(i) It made reasonable efforts to obtain such consent; and

(ii) The child's parent has failed to respond.

(d) Other consent requirements.

(3) A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) or (d)(2) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

CFR 300.302 Screening for instructional purposes is not evaluation.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

CFR 300.303 Reevaluations.

(a) *General.* A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—

(1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(2) If the child's parent or teacher requests a reevaluation.

(b) *Limitation.* A reevaluation conducted under paragraph (a) of this section—

(1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and

(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

CFR 300.304 Evaluation procedures.

(a) *Notice.* The public agency must provide notice to the parents of a child with a disability, in accordance with §300.503, that describes any evaluation procedures the agency proposes to conduct.

(b) *Conduct of evaluation.* In conducting the evaluation, the public agency must--

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining--

(i) Whether the child is a child with a disability under §300.8; and

- (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);
 - (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
 - (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (c) *Other evaluation procedures.* Each public agency must ensure that--
- (1) Assessments and other evaluation materials used to assess a child under this part--
 - (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;
 - (iii) Are used for the purposes for which the assessments or measures are valid and reliable;
 - (iv) Are administered by trained and knowledgeable personnel; and
 - (v) Are administered in accordance with any instructions provided by the producer of the assessments.
 - (2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
 - (3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
 - (4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
 - (5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with §300.301(d)(2) and (e), to ensure prompt completion of full evaluations.
 - (6) In evaluating each child with a disability under §§300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
 - (7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

CFR 300.305 Additional requirements for evaluations and reevaluations.

(a) *Review of existing evaluation data.* As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must--

- (1) Review existing evaluation data on the child, including—
 - (i) Evaluations and information provided by the parents of the child;
 - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
 - (iii) Observations by teachers and related services providers; and
- (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine--
 - (i)(A) Whether the child is a child with a disability, as defined in §300.8, and the educational needs of the child; or
(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
 - (ii) The present levels of academic achievement and related developmental needs of the child;
 - (iii)(A) Whether the child needs special education and related services; or
(B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and
 - (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

(b) *Conduct of review.* The group described in paragraph (a) of this section may conduct its review without a meeting.

(c) *Source of data.* The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.

(d) *Requirements if additional data are not needed.*

- (1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of—
 - (i) That determination and the reasons for the determination; and
 - (ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs.
- (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

(e) *Evaluations before change in eligibility.*

- (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§300.304 through 300.311 before determining that the child is no longer a child with a disability.
- (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.

- (3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

CFR 300.306 Determination of eligibility.

(a) *General.* Upon completion of the administration of assessments and other evaluation measures--

- (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in §300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and
- (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

(b) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this part--

- (1) If the determinant factor for that determination is--
 - (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);
 - (ii) Lack of appropriate instruction in math; or
 - (iii) Limited English proficiency; and
- (2) If the child does not otherwise meet the eligibility criteria under §300.8(a).

(c) *Procedures for determining eligibility and educational need.*

- (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.8, and the educational needs of the child, each public agency must--
 - (i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
 - (ii) Ensure that information obtained from all of these sources is documented and carefully considered.
- (2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.320 through 300.324.

CFR 300.308 Additional group members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in § 300.8, must be made by the child's parents and a team of qualified professionals, which must include—

- (a)(1) The child's regular teacher; or
- (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
- (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and

- (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

CFR 300.310 Observation.

- (a) The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.
- (b) The group described in § 300.306(a)(1), in determining whether a child has a specific learning disability, must decide to—
 - (1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or
 - (2) Have at least one member of the group described in § 300.306(a)(1) conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with § 300.300(a), is obtained.
- (c) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

CFR 300.322 Parent participation. (reads in part)

- (a) *Public agency responsibility—general.* Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including--
 - (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
 - (2) Scheduling the meeting at a mutually agreed on time and place.
- (c) *Other methods to ensure parent participation.* If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with §300.328 (related to alternative means of meeting participation).
- (d) *Conducting an IEP Team meeting without a parent in attendance.* A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as--
 - (1) Detailed records of telephone calls made or attempted and the results of those calls;
 - (2) Copies of correspondence sent to the parents and any responses received; and
 - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

CFR 300.323 When IEPs must be in effect. (reads in part)

- (f) *IEPs for children who transfer from another State.* If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable

to those described in the child's IEP from the previous public agency), until the new public agency—

- (1) Conducts an evaluation pursuant to §§ 300.304 through 300.306 (if determined to be necessary by the new public agency); and
- (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324.

CFR 300.324 Development, review, and revision of IEP. (reads in part)

- (2)(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
- (v) Consider whether the child needs assistive technology devices and services.

CFR 300.503 Prior notice by the public agency; content of notice. (reads in part)

(a) *Notice.* Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—

- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(b) *Content of notice.* The notice required under paragraph (a) of this section must include—

- (1) A description of the action proposed or refused by the agency;
- (2) An explanation of why the agency proposes or refuses to take the action;
- (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
- (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
- (7) A description of other factors that are relevant to the agency's proposal or refusal.

CFR 300.504 Procedural safeguards notice. (reads in part)

(a) *General.* A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents--

- (1) Upon initial referral or parent request for evaluation;
- (2) Upon receipt of the first State complaint under §§300.151 through 300.153 and upon receipt of the first due process complaint under §300.507 in a school year;
- (3) In accordance with the discipline procedures in §300.530(h); and

- (4) Upon request by a parent.

CFR 300.519 Surrogate parents.

- (a) *General.* Each public agency must ensure that the rights of a child are protected when--
- (1) No parent (as defined in §300.30) can be identified;
 - (2) The public agency, after reasonable efforts, cannot locate a parent;
 - (3) The child is a ward of the State under the laws of that State; or
 - (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).
- (b) *Duties of public agency.* The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method--
- (1) For determining whether a child needs a surrogate parent; and
 - (2) For assigning a surrogate parent to the child.
- (c) *Wards of the State.* In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.
- (d) *Criteria for selection of surrogate parents.* (1) The public agency may select a surrogate parent in any way permitted under State law.
- (2) Public agencies must ensure that a person selected as a surrogate parent--
 - (i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;
 - (ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
 - (iii) Has knowledge and skills that ensure adequate representation of the child.
- (e) *Non-employee requirement; compensation.* A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.
- (f) *Unaccompanied homeless youth.* In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.
- (g) *Surrogate parent responsibilities.* The surrogate parent may represent the child in all matters relating to--
- (1) The identification, evaluation, and educational placement of the child; and
 - (2) The provision of FAPE to the child.
- (h) *SEA responsibility.* The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.



Office of Public Instruction
Linda McCulloch, Superintendent
PO Box 202501
Helena, MT 59620-2501
www.opi.mt.gov

EVALUATION PLAN
NOTICE OF INTENT TO CONDUCT AN
EVALUATION OR REEVALUATION and
PERMISSION FOR EVALUATION OR REEVALUATION

TO: _____
(Parent / Adult Student)

_____/_____/_____
(Name of Student) Date of Birth

Has been referred for comprehensive evaluation for the following reasons:

The tests and other evaluation procedures to be used to assess your child are marked below:

☐ **ACADEMIC ACHIEVEMENT:** Individually administered diagnostic tests in early literacy, reading, language, math and written language to determine skills in the above areas.

☐ **ASSISTIVE TECHNOLOGY/SERVICES:** Needs for assistive devices and services in order to benefit from special education services.

☐ **BEHAVIORAL:** Assessment and/or observations to identify supports and strategies to address behavioral needs.

☒ **CLASSROOM-BASED ASSESSMENT*:** Involvement and progress in general education curriculum (i.e., reading, math, etc.). _____

* **Required**

☐ **COMMUNICATION:** Individual tests of speech and/or receptive and expressive language skills. _____

☐ **DEVELOPMENTAL:** Individually administered tests and/or structured observations measuring typical child development of preschool-age students or others as appropriate.

☐ **FUNCTIONAL BEHAVIOR ASSESSMENT:** Assessment and/or observations to identify supports and strategies to address behavioral needs.

☒ **OBSERVATIONS***

☐ **PHYSICAL:** Visual and hearing acuity; gross and fine motor development; orientation/mobility; blindness/visual impairment (need for Braille instruction).

☐ **PSYCHOLOGICAL:** Individually administered intelligence tests and measures of adaptive behavior designed to help determine the student's ability to function in an academic setting.

☐ **SOCIAL/EMOTIONAL:** Checklists, tests and observations to determine social skills and emotional status of the student. _____

☐ **TRANSITION:** Assessments of training, education, employment, or independent living skills.

☐ **OTHER: (specify)** _____

If you have any questions about your rights, or any part of the Special Education process, please contact your school administrator or cooperative personnel. Please respond to this request for Permission for Evaluation as soon as possible.

I understand the reason(s) for the evaluation and the description of the tests and other evaluation procedures and have checked the appropriate box below. If this is the initial evaluation of my child I have received the pamphlet **PROCEDURAL SAFEGUARDS IN SPECIAL EDUCATION UNDER IDEA.**

☐ Permission is **given** to conduct the evaluation. _____
Parent / Adult Student Date

☐ Permission is **denied.** _____
Parent / Adult Student Date

School Contact

Phone Number

Date Sent

Date Returned



Office of Public Instruction
Linda McCulloch, Superintendent
PO Box 202501
Helena, MT 59620-2501

Evaluation Report

STUDENT INFORMATION

Student Name	Initials	Birthdate	Age	Gender M F	Grade	Today's Date
District/School	Initial Referral Date				Initial Evaluation <input type="checkbox"/>	
	Next Comprehensive Reevaluation Due				Reevaluation <input type="checkbox"/>	
Parent(s)' Name	Parent(s)' Address				Home Phone	
	E-mail				Work Phone/Cell Phone	

EVALUATIONS AND INFORMATION PROVIDED BY THE PARENT(S) AND/OR STUDENT

Parent Comments*: _____

Student Comments: _____

Implications for Educational Planning: _____

ASSESSMENT AREAS

Assessment results, including implications for educational planning, may be summarized or attached as written reports.

Summarized Attached

☐
☐
☐
☐
☐
☐
☐

☐ Academic Achievement
☐ Assistive Technology/Services
☐ Behavioral
☐ Classroom-Based Assessment*
☐ Communication
☐ Developmental
☐ Functional Behavior Assessment

Summarized Attached

☐
☐
☐
☐
☐
☐

☐ Observations*
☐ Physical
☐ Psychological
☐ Social/Emotional
☐ Transition
☐ Other: _____

* Required

Student Name: _____

Report Date: _____

ASSESSMENT SUMMARIES

Assessment Area: _____

Evaluator(s): _____

Date of Eval/Observ: _____

Results: _____

Implications for Educational Planning: _____

Assessment Area: _____

Evaluator(s): _____

Date of Eval/Observ: _____

Results: _____

Implications for Educational Planning: _____

Assessment Area: _____

Evaluator(s): _____

Date of Eval/Observ: _____

Results: _____

Implications for Educational Planning: _____

Student Name: _____

Report Date: _____

ELIGIBILITY DETERMINATION

Student **IS** eligible for special education and related services under the Individuals with Disabilities Education Act. Basis for making the determination that the student has a disability and needs special education and related services:

Disability criteria: _____

☐ Criteria Checklist Attached

Why does the student need special education and related services? _____

Disability Categories (check all that apply):

- | | | |
|--|---|---|
| <input type="checkbox"/> Autism | <input type="checkbox"/> Deafness | <input type="checkbox"/> Other Health Impairment ² |
| <input type="checkbox"/> Developmental Delay | <input type="checkbox"/> Emotional Disturbance | <input type="checkbox"/> Specific Learning Disability |
| <input type="checkbox"/> Cognitive Delay | <input type="checkbox"/> Hearing Impairment | <input type="checkbox"/> Speech Language Impairment |
| <input type="checkbox"/> Deaf-Blindness | <input type="checkbox"/> Orthopedic Impairment ¹ | <input type="checkbox"/> Traumatic Brain Injury |
| | | <input type="checkbox"/> Visual Impairment |

¹ Medical report required (diagnosis of orthopedic impairment by a qualified medical practitioner)

² Medical report required (medical diagnosis of chronic or acute health problem)

Recommendations for consideration by the IEP team:

Special Education Services

- | | | |
|---|--|---|
| <input type="checkbox"/> Adapted Physical Education | <input type="checkbox"/> Math | <input type="checkbox"/> Speech/Language |
| <input type="checkbox"/> Assistive Technology | <input type="checkbox"/> Reading | <input type="checkbox"/> Transition |
| <input type="checkbox"/> Braille Instruction | <input type="checkbox"/> Self-Help/Independence | <input type="checkbox"/> Travel Training |
| <input type="checkbox"/> Career/Vocational | <input type="checkbox"/> Sensory-Motor | <input type="checkbox"/> Written Expression |
| <input type="checkbox"/> Communication | <input type="checkbox"/> Social/Emotional/Behavioral | |

Related Services

- | | | |
|--|---|---|
| <input type="checkbox"/> Assistive Technology | <input type="checkbox"/> Orientation and Mobility | <input type="checkbox"/> School Health/Nurse Services |
| <input type="checkbox"/> Audiology | <input type="checkbox"/> Parent Counseling and Training | <input type="checkbox"/> Social Work in Schools |
| <input type="checkbox"/> Counseling | <input type="checkbox"/> Physical Therapy | <input type="checkbox"/> Speech/Language |
| <input type="checkbox"/> Early Identification/Assessment | <input type="checkbox"/> Psychological | <input type="checkbox"/> Therapeutic Recreation |
| <input type="checkbox"/> Medical (diagnostic) | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Occupational Therapy | <input type="checkbox"/> Rehabilitation Counseling | <input type="checkbox"/> Other: _____ |

DOCUMENTATION—if not eligible

Student **IS NOT** eligible for special education and related services under the Individuals with Disabilities Education Act for the following reason(s):

- | | |
|--|---|
| <input type="checkbox"/> Does not meet disability criteria | <input type="checkbox"/> Lack of instruction in reading or math |
| <input type="checkbox"/> Does not demonstrate need for special education | <input type="checkbox"/> Limited English proficiency |

Discussion: _____

Recommendation for accommodation or referral for other services as appropriate: _____

Student Name: _____		Report Date: _____
<p>The following persons, as indicated by their signatures, have participated in the development of this Evaluation Report. The public agency shall give the parent a copy of the child's Evaluation Report at no cost to the parent.</p>		
_____ Parent	_____ Date	_____ Parent
_____ Student	_____ Date	_____ Speech/Language Pathologist
_____ Administrator or Designee	_____ Date	_____ Signature/Position
_____ Regular Education Teacher	_____ Date	_____ Signature/Position
_____ Special Education Teacher	_____ Date	_____ Signature/Position
_____ School Psychologist	_____ Date	_____ Signature/Position
<p>Each participant of the Evaluation Team shall be provided an opportunity to submit a separate statement of conclusions if the report does not reflect the conclusions of the participant.</p> <p><input type="checkbox"/> Dissenting report will be attached.</p> <p>Person(s) submitting a separate statement of conclusions: _____</p> <p>Reasons: _____</p> <p>_____</p> <p>_____</p>		
NOTES		



Office of Public Instruction
Linda McCulloch, Superintendent
PO Box 202501
Helena, MT 59620-2501

Amendment of Current IEP

Student Name	Initials	Birthdate	Today's Date
Parent(s) Name	IEP Manager and Phone Number		District/School

The following area(s) of the student's IEP dated _____ have been amended:
Attach a copy of the IEP page(s) or document to show the amendment(s).

- ☐ Consideration of Special Factors
- ☐ Orientation and Mobility/Braille Instruction
- ☐ Adding Special Education Service or Related Service
- ☐ Removing Special Education Service or Related Service
- ☐ Measurable Annual Goals and/or Short-term Objectives/Benchmarks
- ☐ Hours Per Week in Special Education or General Education Setting
- ☐ Participation in State/Districtwide Assessments
- ☐ General Education Accommodations/Modifications
- ☐ Extended School Year
- ☐ Transition Services
- ☐ Behavior Plan
- ☐ Other: _____

Reason for amendment(s): _____

Date on which the amended changes are to begin: _____

The following persons, as indicated by their signatures, have approved the amendment(s) to the IEP:

_____ Parent	_____ Date	_____ Parent
_____ Student	_____ Date	_____ Special Education Teacher
_____ Administrator or Designee	_____ Date	_____ Speech/Language Pathologist
_____ Regular Education Teacher	_____ Date	_____ School Psychologist
_____ Signature/Position	_____ Date	_____ Signature/Position



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Transfer Student Documentation

Student Name	Initials	Birthdate	Today's Date
Parent(s) Name	Previous District/State		<u>Current</u> District/School Date of Enrollment

Complete this section ONLY for students who transferred within the state of Montana.

The student's IEP from the previous school district was:

- ☐ Implemented without change on _____(date)
☐ Implemented as amended on _____(date)
☐ Not received. A new IEP was developed on _____(date)

Date of most recent annual IEP prior to enrollment: _____

Date of most recent eligibility determination: _____

Complete this section ONLY for students who transferred to Montana from another state.

The student's IEP from the previous school district was:

- ☐ Implemented without change on _____(date)
☐ Implemented as amended on _____(date)
☐ Not received. A new IEP was developed on _____(date)

Date of most recent annual IEP prior to enrollment: _____

On _____(date) it was determined that:

- ☐ the student is eligible to be identified as a student with a disability in the state of Montana.
The student's disability category(ies) is: _____.
- ☐ a comprehensive initial evaluation must be conducted to determine if the student is eligible to be identified as a student with a disability in the state of Montana.

Administrator or Designee

Special Education Teacher

EVALUATION REPORT

ASSESSMENT SUMMARIES AND IMPLICATIONS EXAMPLES

Assessment Area: Classroom-Based Assessment

Results:

Amanda is reading at 44 words per minute in a beginning second-grade basal, compared to a class mean of 85 words per minute in the same materials. Amanda's written production is approximately 10 percent of her classmates. Handwriting is nearly illegible. Amanda's math score on a chapter test on addition was 87 percent compared to the class mean of 89 percent. Daily work is seldom completed because of distractibility. Amanda's spelling average is 76 percent on the same list as her classmates, but scores vary greatly from week to week and writing is laborious.

Implications for Educational Planning:

Amanda will need additional support in the area of reading, with grade-level materials read to her as needed. She will need to dictate written assignments or use a computer, and whenever possible take spelling and math tests orally. She will require assistance with the development of handwriting skills. The team should consider a behavior plan to help improve work completion that takes into consideration writing difficulties.

Assessment Area: Psychological

Results:

On the Wechsler Intelligence Scale for Children (3rd Ed.) Amanda scored well within the average range, scoring near the 66th percentile. Very significant subtest variability was noted with verbal-comprehension scores being significantly higher (97th percentile) than perceptual-organizational scores (23rd percentile). Her score on the Processing Speed index was near the low end of the average range (near the 18th percentile).

Implications for Educational Planning:

Amanda's verbal-comprehension skills will likely be a great asset in the classroom, particularly in discussion activities. Her difficulties with visual-spatial tasks will likely cause some frustration and she will require more time for non-verbal processing. Written assignments may take longer as she works to process visual information. Classroom support and modifications will be necessary to accommodate her needs.

Assessment Area: Academic Achievement

Results:

WIAT standard scores:

Reading: 1.5 grade equivalent

Mathematics: 1.8 grade equivalent

Language: 4.8 grade equivalent

Writing: 1.4 grade equivalent

Implications for Educational Planning:

Amanda is functioning significantly below her same-age peers in the areas of reading, math, and written language. She will need added support and some individualized instruction in the classroom and/or the resource room to help strengthen her skills and her ability to meet with a greater level of success. She will need adapted and/or shortened assignments.

Assessment Area: Observations

Results:

Amanda was observed to be well on task (92%) during a listening activity. During independent seatwork she was observed to be much less engaged (42%). She seemed to have difficulty organizing materials, and needed a great deal of individual direction from the classroom teacher.

Implications for Educational Planning:

Amanda's positive attention to task during oral activities indicates an area of strength. It would be helpful to include auditory directions and cues when expecting her to complete tasks. She may require individual assistance with organization and independent seatwork.

Assessment Area: Social/ Emotional/Behavioral

Results:

Amanda reports a generally positive attitude toward school, although some frustrations were noted regarding tasks requiring writing (which is a significant portion of her day). Socially, Amanda reports having several friends at school, which is consistent with teacher report and observations. No significant difficulties were noted regarding her social-emotional adjustment.

Implications for Educational Planning:

Although Amanda's attitude toward school is quite positive at this time, her frustration with writing will have to be carefully watched so as not to develop into greater general frustration with school. Accommodations for writing will help to alleviate some of the difficulties that Amanda is experiencing.

Assessment Area: Speech/Language

Results:

Amanda has numerous speech sound errors because of distortions and substitutions. The following sounds are ones used incorrectly at word level and in connected speech: a, k, sh, l, r, dz, th, v, s, and voiced th. Amanda is difficult to understand at times because of these speech errors. Her performance is two standard deviations below the norm.

Implications for Educational Planning:

Because of Amanda's speech errors she may be difficult to understand and she may have difficulty with phonics in her reading program. She becomes upset when she can't be understood and may require some accommodations in her classroom. Amanda needs speech therapy services to assist her in learning correct sounds. She may also need assistance with phonetics as part of her basic reading program.

EVALUATION REPORT

DISABILITY CRITERIA AND NEED FOR SPECIAL EDUCATION EXAMPLES

Basis for making the determination that the student has a disability and needs special education and related services:

Initial Evaluation: Learning Disabilities

Disability Criteria:

Robin shows a significant two standard deviation discrepancy between cognitive ability scores and academic achievement test results in the areas of reading and written language. Despite interventions and the provision of appropriate learning experiences, she is achieving below her age level in both areas.

Need for Special Education:

Robin requires individually designed assignments, special accommodations, and the support of a special education teacher in the classroom to help her acquire the information from the second grade curriculum.

Reevaluation: Learning Disabilities

Disability Criteria:

A discrepancy continues to exist between Bonnie's cognitive abilities and her achievement, particularly in the areas of reading and written language.

Need for Special Education:

Bonnie continues to require individually designed assignments and support from the resource teacher to help her acquire the information from the second grade curriculum.

Initial Evaluation: Emotional Disturbance

Disability Criteria:

Steve exhibits inappropriate behaviors in the classroom, which are atypical for a child his age. His behaviors include extended periods of kicking and hitting that are difficult to control. He has difficulty controlling inappropriate comments to peers and maintaining interpersonal relationships. The behaviors have persisted over a marked period of time and are affecting his performance in school. Prior interventions to decrease behaviors have not proven successful.

Need for Special Education:

Steve's behavior interferes with his ability to perform in the classroom. He is approximately two years behind his peers in the areas of reading and math. He requires individual assistance with behavior and academic supports from the special education teacher.

Reevaluation: Emotional Disturbance

Disability Criteria:

Matt continues to demonstrate an inability to maintain satisfactory relationships with peers and teachers in school. He also continues to display periods of major depression. His behavior affects educational performance in all subject areas.

Need for Special Education:

Matt's emotional and behavioral symptoms continue to interfere with classroom performance. He needs a structured setting with continued individualized support and group counseling to help him meet with success in school.

Initial Evaluation: Speech/Language

Disability Criteria:

Speech/Language testing indicates that Shauna falls below the first percentile on the Arizona Articulation Proficiency Scale and on the Word Articulation Subtest on the TOLD-3. She is 50 percent intelligible with careful listening to the normal listener. Evaluation results indicate a significant deviation in articulation errors. Observations indicate the speech-language impairment is affecting communication in the classroom.

Need for Special Education:

Shauna is having difficulty making herself understood in the classroom. She requires speech services to help remediate the misarticulations. She also needs special accommodations and support from the speech/language pathologist to assist with oral communication in the classroom.

Reevaluation: Speech/Language

Disability Criteria:

Misarticulations continue to negatively impact overall intelligibility with adults and peers in the classroom. Reevaluation data indicates that Kevin continues to deviate from the norm and despite interventions, there continues to be an adverse educational effect of the speech-language impairment in the classroom.

Need for Special Education:

Kevin continues to have difficulty with intelligibility and is experiencing some frustration when he is unable to make himself understood. He requires direct services and support from the speech/language pathologist in order to improve oral communication with adults and peers in the classroom.

Eligibility Criteria Checklists

Autism
Developmental Delay
Cognitive Delay
Deaf-Blindness
Deafness
Emotional Disturbance
Hearing Impairment
Orthopedic Impairment
Other Health Impairment
Specific Learning Disability – Response to Intervention
Specific Learning Disability – Severe Discrepancy
Speech Language Impairment
Traumatic Brain Injury
Visual Impairment

10.16.3011 CRITERIA FOR AUTISM

Yes No Documentation supports the existence of a developmental disability that was generally evident before the student was three years of age;
and

Yes No The student has communication difficulties in verbal and nonverbal communication and social interaction.

Yes No Assessments document the presence of significant delays in verbal and nonverbal communication and social interaction.

Significant delays in verbal communication are manifested by at least one of the following:

Yes No Delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime).

Yes No In students with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others.

Yes No Significant delays in nonverbal communication are manifested by a marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, or gestures to regulate social interaction.

Significant delays in social interaction are manifested by at least one of the following:

Yes No Failure to develop peer relationships appropriate to developmental levels;

Yes No Lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., lack of showing, bringing or pointing out objects of interest);

Yes No Lack of social or emotional reciprocity;

Yes No Lack of varied, spontaneous, make-believe play or social imitative play appropriate to developmental level.

A student who manifests the characteristics of autism after age three could be identified as having autism if the criteria for significant delays in verbal communication and significant delays in social interaction are met.

The following information is provided to assist the Child Study Team, but is not required for identification of a student with autism:

Other characteristics often associated with autism may include restricted, repetitive and stereotyped patterns of behavior, interests and activities, as manifested by one or more of the following:

Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

Apparently inflexible adherence to specific nonfunctional routines or rituals;

Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements);

Persistent preoccupation with parts of objects.

EXCLUSIONARY FACTORS:

The student may not be identified as having autism if the student's educational performance is adversely affected primarily because the student has an emotional disturbance.

Student Name: _____ **Report Date:** _____

10.16.3010 CRITERIA FOR DEVELOPMENTAL DELAY

☐ The student is 3, 4 or 5 years old.

The student functions at a developmental level:

☐ Two or more standard deviations below the norm in any ONE of the following areas of development:

- | | |
|---|--|
| <input type="checkbox"/> adaptive functioning skills | <input type="checkbox"/> cognitive development |
| <input type="checkbox"/> communication development | <input type="checkbox"/> physical development |
| <input type="checkbox"/> social and emotional development | |

or

☐ 1.5 or more standard deviations below the norm in TWO OR MORE of the following areas of development:

- | | |
|---|--|
| <input type="checkbox"/> adaptive functioning skills | <input type="checkbox"/> cognitive development |
| <input type="checkbox"/> communication development | <input type="checkbox"/> physical development |
| <input type="checkbox"/> social and emotional development | |

Documentation of a developmental delay must include:

- ☐ Appropriate developmental assessment that addressed each of the areas above.
- ☐ Observation of the student's communication development and social and emotional development in a classroom or other group setting.

Student Name: _____

Report Date: _____

10.16.3012 CRITERIA FOR COGNITIVE DELAY

Yes No The student has a significantly subaverage general intellectual functioning; **and**

Yes No Corresponding deficits in adaptive behavior and educational performance, especially in the area of application of basic academic skills in daily life activities.

Yes No The presence of subaverage general intellectual functioning must occur between conception and the 18th birthday.

DEFINITIONS:

"General intellectual functioning" means performance on a standardized intelligence test that measures general cognitive ability rather than one limited facet of ability.

"Significantly subaverage general intellectual functioning" is defined as two or more standard deviations below the population mean on a standardized intelligence test. Error in test measurement requires clinical judgment for students who score near two standard deviations below the mean.

"Deficits in adaptive behavior" is defined as significant limitations in the student's effectiveness in meeting the standards of personal independence, interpersonal communication, and social responsibility expected for the student's age/grade peers and cultural group as measured by standardized instruments or professionally recognized scales.

Student Name: _____ **Report Date:** _____

10.16.3013 CRITERIA FOR DEAF-BLINDNESS

The student:

Yes No Meets the criteria in ARM 10.16.3022 for visual impairment;

Yes No Meets the criteria in ARM 10.16.3020 for speech-language impairment;

Yes No Meets the criteria in ARM 10.16.3016 for hearing impairment or in ARM 10.16.3014 for deafness; **and**

Yes No Is experiencing severe delays in communication and other developmental and educational skills such that services designed solely for students with deafness or for students with blindness would not meet the student's educational needs.

Student Name: _____ **Report Date:** _____

10.16.3014 CRITERIA FOR DEAFNESS

Yes No An audiological report documents that hearing loss is so severe that the student is impaired in processing linguistic information, with or without amplification, to the extent that prevents the auditory channel from being the primary mode of learning speech and language.

Yes No The student's educational performance is adversely affected as documented by specific examples:

The results and analysis of a current assessment of language development, as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually, is required to show an impairment in processing linguistic information prior to identification.

DEFINITIONS:

"Adversely affect the student's educational performance" means that there is evidence that measures of student performance (e.g., achievement tests, grades, behavioral assessments, analysis of classroom assignments, or criterion-referenced tests, etc.) indicate a pattern of educational attainment that can wholly or in part be attributed to the disabling condition.

Student Name: _____ **Report Date:** _____

10.16.3015 CRITERIA FOR EMOTIONAL DISTURBANCE

A condition, which includes one or more of the following characteristics, is present:

- | | | |
|-----|----|---|
| Yes | No | An inability to build or maintain satisfactory relationships with peers and teachers; |
| Yes | No | Inappropriate types of behavior or feelings under normal circumstances, including behaviors which are psychotic or bizarre in nature or behaviors which are atypical and for which no observable reason exists; |
| Yes | No | A general, pervasive mood of unhappiness or depression, including major depression and dysthymia, but excluding normal grief reactions; |
| Yes | No | A tendency to develop physical symptoms or fears associated with personal or school problems, including separation anxiety, avoidant disorder and overanxious disorder; |
| Yes | No | Schizophrenia. |

Each of the conditions above shall meet the criteria of having been present:

- | | | |
|-----|----|--|
| Yes | No | To a marked degree, |
| Yes | No | Over a long period of time, and |
| Yes | No | Adversely affecting the student's educational performance. |
| Yes | No | The student has been observed in more than one setting within the educational environment; and |
| Yes | No | The local education agency has planned and implemented one or more positive behavioral interventions specific to the individual student. |

Interventions shall not unnecessarily delay appropriate identification when it can be shown through a student's social or developmental history, compiled directly from the student's parents or from records when the parents are not available, the existence of characteristics that clearly identify emotional disturbance.

EXCLUSIONARY FACTORS:

The student may not be identified as having emotional disturbance if:

Delays in educational performance are primarily due to visual impairment, hearing impairment, orthopedic impairment, cognitive delay, health factors, cultural factors or limited educational opportunity.

Common disciplinary problems may exist in conjunction with emotional disturbance, but cannot be used as the sole criteria for determining the existence of an emotional disturbance.

The term emotional disturbance does not apply to students who are socially maladjusted, unless it is determined that they meet the criteria for emotional disturbance.

DEFINITIONS:

"Adversely affect the student's educational performance" means that there is evidence that measures of student performance (e.g., achievement tests, grades, behavioral assessments, analysis of classroom assignments, or criterion-referenced tests, etc.) indicate a pattern of educational attainment that can wholly or in part be attributed to the disabling condition.

Student Name: _____ **Report Date:** _____

10.16.3016 CRITERIA FOR HEARING IMPAIRMENT

Yes No An audiological report documents a permanent hearing loss in excess of 20 dB better ear average in the speech range (500, 1,000, 2,000 Hz), unaided, **or**

Yes No A history of fluctuating hearing loss which has interrupted the normal acquisition of speech and language and continues to adversely affect educational performance.

DEFINITIONS:

"Adversely affect the student's educational performance" means that there is evidence that measures of student performance (e.g., achievement tests, grades, behavioral assessments, analysis of classroom assignments, or criterion-referenced tests, etc.) indicate a pattern of educational attainment that can wholly or in part be attributed to the disabling condition.

Student Name: _____ **Report Date:** _____

10.16.3017 CRITERIA FOR ORTHOPEDIC IMPAIRMENT

Yes No The student is diagnosed by a qualified medical practitioner as having an orthopedic impairment;

Yes No The impairment is severe; **and**

Yes No The impairment adversely affects the student's educational performance.

DEFINITIONS:

The term orthopedic impairment includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

"Adversely affect the student's educational performance" means that there is evidence that measures of student performance (e.g., achievement tests, grades, behavioral assessments, analysis of classroom assignments, or criterion-referenced tests, etc.) indicate a pattern of educational attainment that can wholly or in part be attributed to the disabling condition.

Student Name: _____

Report Date: _____

10.16.3018 CRITERIA FOR OTHER HEALTH IMPAIRMENT

Yes No The student has limited strength, vitality or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia or tuberculosis; **and**

Yes No The condition adversely affects the student's educational performance.

Yes No The student has a medical diagnosis of a chronic or acute health problem. (REQUIRED)

DEFINITIONS:

"Adversely affect the student's educational performance" means that there is evidence that measures of student performance (e.g., achievement tests, grades, behavioral assessments, analysis of classroom assignments, or criterion-referenced tests, etc.) indicate a pattern of educational attainment that can wholly or in part be attributed to the disabling condition.

Student Name: _____

Report Date: _____

10.16.3019(a) CRITERIA FOR SPECIFIC LEARNING DISABILITY

RESPONSE TO SCIENTIFIC, RESEARCH-BASED INTERVENTION (RtI)

Yes No The student has been provided learning experiences appropriate to the student's age or grade-level based on state-approved K-12 content standards.

Yes No The student did not make sufficient progress to meet age or grade level based on state-approved K-12 content standards in one or more of the following areas (check each area in which the student did not make sufficient progress):

<input type="checkbox"/> basic reading skills	<input type="checkbox"/> oral expression
<input type="checkbox"/> reading comprehension	<input type="checkbox"/> written expression
<input type="checkbox"/> reading fluency skills	<input type="checkbox"/> mathematics calculation
<input type="checkbox"/> listening comprehension	<input type="checkbox"/> mathematics problem solving

Yes No The student was determined to have a specific learning disability based on an insufficient response to scientific, research-based interventions resulting in a low level of academic achievement.

Yes No Insufficient response to interventions occurred when, despite the implementation of the interventions over a sustained period of time, the student did not achieve adequately based on the student's age or grade level based on state-approved K-12 content standards.

Scientific, research based interventions were:

Yes No Matched to the specific needs of the student as identified through systematic, data-based processes for examining the presenting problem, including parental input, to identify instructional interventions that have a high likelihood of success;

Yes No Focused on changing the instructional strategies or techniques used with the student; and

Yes No Regularly monitored for student progress and correct implementation via regular and frequent data collection, and analyzed and modified as necessary based on data analysis.

In determining the response to scientific research-based interventions the evaluation team considered data:

- | | | |
|-----|----|--|
| Yes | No | Regarding how appropriately the intervention was delivered by qualified personnel, and |
| Yes | No | Comparing the student's rate of learning and current levels of performance with the student's initial levels of performance. |
| Yes | No | The student did not make sufficient response to scientific, research-based interventions, and |
| Yes | No | The level of intervention necessary to sustain the response can only be provided through special education services. |

Documentation also includes:

- | | | |
|-----|----|---|
| Yes | No | The scientific, research based interventions and instructional strategies used; and |
| Yes | No | The student-centered data collected during the implementation of at least two intensive individualized interventions implemented for a sustained period of time. |
| Yes | No | The evaluation team documented the student's academic performance in the regular classroom setting through observation. |
| Yes | No | Requirements for documentation of observation were met by observation of routine classroom instruction and monitoring of the student's performance that was done before the child was referred for an evaluation, or |
| Yes | No | At least one member of the evaluation team conducted an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent was obtained. |

Yes No Not Applicable

If the student was younger than school age or out of school, an evaluation team member observed the student in an environment appropriate for a student of that age.

- Yes No Educationally relevant medical findings, if any, were considered; **and**
- Yes No Two or more interventions specific to the individual student were implemented.
- Yes No Interventions did not unnecessarily delay appropriate identification.

EXCLUSIONARY FACTORS:

The student may not be identified as having a specific learning disability if the student's significantly low rate of progress in meeting age or grade level based on state approved K-12 content standards is primarily the result of a visual, hearing, or motor impairment; cognitive delay; emotional disturbance; environmental or economic disadvantage; cultural factors; or a lack of appropriate instruction.

Student Name: _____ **Report Date:** _____

10.16.3019(b) CRITERIA FOR SPECIFIC LEARNING DISABILITY

SEVERE DISCREPANCY

Yes No The student has been provided learning experiences appropriate to the student's age or grade-level based on state-approved K-12 content standards.

Yes No The student did not make sufficient progress to meet age or grade level based on state-approved K-12 content standards in one or more of the following areas (check each area in which the student did not make sufficient progress):

<input type="checkbox"/> basic reading skills	<input type="checkbox"/> oral expression
<input type="checkbox"/> reading comprehension	<input type="checkbox"/> written expression
<input type="checkbox"/> reading fluency skills	<input type="checkbox"/> mathematics calculation
<input type="checkbox"/> listening comprehension	<input type="checkbox"/> mathematics problem solving

Yes No The student was determined to have a specific learning disability based on a severe discrepancy between the student's intellectual ability and achievement in one or more of the areas listed in ARM 10.16.3019.

Documentation also includes:

Yes No The evaluation team documented the student's academic performance in the regular classroom setting through observation.

Yes No Requirements for documentation of observation were met by observation of routine classroom instruction and monitoring of the student's performance that was done before the child was referred for an evaluation, **or**

Yes No At least one member of the evaluation team conducted an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent was obtained.

Yes No Not Applicable

If the student was younger than school age or out of school, an evaluation team member observed the student in an environment appropriate for a student of that age.

- Yes No Educationally relevant medical findings, if any, were considered; **and**
- Yes No Two or more interventions specific to the individual student were implemented.
- Yes No Interventions did not unnecessarily delay appropriate identification.

EXCLUSIONARY FACTORS:

The student may not be identified as having a specific learning disability if the student's significantly low rate of progress in meeting age or grade level based on state-approved K-12 content standards is primarily the result of a visual, hearing, or motor impairment; cognitive delay; emotional disturbance; environmental or economic disadvantage; cultural factors; or a lack of appropriate instruction.

DEFINITIONS:

(a) A severe discrepancy is defined as a 50 percent or higher probability of a two standard deviation discrepancy between general cognitive ability and achievement in one or more of the areas identified in ARM 10.16.3019 when adjusted for regression to the population mean. (b) Error in test measurement requires judgment for students who score near two standard deviations below the population mean. When exercising this judgment, consideration of additional information, such as classroom performance relative to the student's performance on norm-referenced tests, shall be used as the basis for determining the severe discrepancy. (c) Alternatives to norm-referenced tests, such as curriculum-based assessments, shall be utilized to determine severe discrepancy whenever cultural factors, test conditions, size of test item sampling for the student's age, or other factors render standardized assessment results invalid. When utilizing alternative assessment procedures, a determination must still be made that a discrepancy between ability and achievement exists at a level of severity similar in size to the discrepancy that would have otherwise been found as described in (a) above.

Student Name: _____

Report Date: _____

10.16.3020 CRITERIA FOR SPEECH-LANGUAGE IMPAIRMENT

Yes No The student has a significant deviation in speech such as fluency, articulation or voice, **or**

Yes No The student has a significant deviation in the ability to decode or encode oral language which involves phonology, morphology, semantics or pragmatics or a combination thereof.

Yes No Documentation of the student's interpersonal communication effectiveness in a variety of educational settings by the teacher, parent, speech-language pathologist, and others as appropriate supports the adverse educational effect of the speech-language impairment or oral communication in a classroom or school setting.

EXCLUSIONARY FACTORS:

The student may not be identified as having a speech-language impairment if the speech or language problems primarily result from environmental or cultural factors.

DEFINITIONS:

The student has a significant deviation in oral performance if the student's performance on standardized test is two standard deviations below the population mean, or between 1.5 and two standard deviations below the population mean, and there is documented evidence over a six month period prior to the current evaluation of no improvement in the speech-language performance of the student even with regular classroom interventions.

For articulation, a significant deviation is consistent articulation errors persisting one year beyond the highest age when 90 percent of the students have acquired the sounds based upon specific developmental norms.

If norm-referenced procedures are not used, alternative assessment procedures shall substantiate a significant deviation from the norm.

Student Name: _____

Report Date: _____

10.16.3021 CRITERIA FOR TRAUMATIC BRAIN INJURY

Yes No The student has an acquired injury to the brain caused by external physical force which substantially limits the student's functional or psychosocial ability or both **and** the student's ability to learn or participate in the general education curriculum.

EXCLUSIONARY FACTORS:

The student may not be identified as having a traumatic brain injury if the injury to the brain is congenital, degenerative, or caused by birth trauma.

DEFINITIONS:

The term traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual, and motor abilities, psycho-social behavior, physical function, information processing, and speech.

Student Name: _____

Report Date: _____

10.16.3022 CRITERIA FOR VISUAL IMPAIRMENT

Yes No The student has a visual acuity of 20/70 or less in the better eye with correction or field of vision which at its widest diameter subtends an angle of no greater than 20 degrees in the better eye with correction.

Student Name: _____

Report Date: _____

DISABILITY CRITERIA FOR MONTANA

Administrative Rules of Montana 10.16.3010 through 10.16.3022

10.16.3010 DEVELOPMENTAL DELAY

10.16.3011 AUTISM

10.16.3012 COGNITIVE DELAY

10.16.3013 DEAF-BLINDNESS

10.16.3014 DEAFNESS

10.16.3015 EMOTIONAL DISTURBANCE

10.16.3016 HEARING IMPAIRMENT

10.16.3017 ORTHOPEDIC IMPAIRMENT

10.16.3018 OTHER HEALTH IMPAIRMENT

10.16.3019 SPECIFIC LEARNING DISABILITY

10.16.3019A SPECIFIC LEARNING DISABILITY - Rtl

10.16.3019B SPECIFIC LEARNING DISABILITY – DISCREPANCY

10.16.3020 SPEECH-LANGUAGE IMPAIRMENT

10.16.3021 TRAUMATIC BRAIN INJURY

10.16.3022 VISUAL IMPAIRMENT

10.16.3010 CRITERIA FOR IDENTIFICATION OF A CHILD AGED THREE THROUGH FIVE HAVING A DEVELOPMENTAL DELAY

- (1) A student may be identified as having a developmental delay if the student is:
- (a) three, four, or five years old; and
 - (b) functions at a developmental level two or more standard deviations below the norm in any one area of development or 1.5 standard deviations below the norm in two or more of the following areas:
 - (i) cognitive development;
 - (ii) physical development;
 - (iii) communication development;
 - (iv) social and emotional development; or
 - (v) adaptive functioning skills.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00; AMD, 2005 MAR p. 2056, Eff. 10/28/05.)

10.16.3011 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING AUTISM

- (1) The student may be identified as having autism if documentation supports the existence of a developmental disability that was generally evident before the student was three years of age and if the student has communication difficulties in verbal and nonverbal communication and social interaction.
- (2) Assessments shall document the presence of significant delays in verbal and nonverbal communication and social interaction.
- (a) Significant delays in verbal communication are manifested by at least one of the following:
 - (i) delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime);
 - (ii) in students with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others.
 - (b) Significant delays in nonverbal communication are manifested by a marked impairment in the use of multiple nonverbal behaviors such as eye to eye gaze, facial expression, body postures, or gestures to regulate social interaction.
 - (c) Significant delays in social interaction are manifested by at least one of the following:
 - (i) failure to develop peer relationships appropriate to developmental levels;
 - (ii) lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., lack of showing, bringing or pointing out objects of interest);
 - (iii) lack of social or emotional reciprocity;
 - (iv) lack of varied, spontaneous, make-believe play or social imitative play appropriate to developmental level.
- (3) Other characteristics often associated with autism may include restricted, repetitive and stereotyped patterns of behavior, interests and activities, as manifested by one or more of the following:

- (a) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;
 - (b) Apparently inflexible adherence to specific nonfunctional routines or rituals;
 - (c) Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements);
 - (d) Persistent preoccupation with parts of objects.
- (4) A student who manifests the characteristics of autism after age three could be identified as having autism if the criteria in (2) and (3) are met.
- (5) The student may not be identified as having autism if the student's educational performance is adversely affected primarily because the student has an emotional disturbance.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3012 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING COGNITIVE DELAY

- (1) The student may be identified as having cognitive delay if the student has a significantly subaverage general intellectual functioning and corresponding deficits in adaptive behavior and educational performance, especially in the area of application of basic academic skills in daily life activities.
- (2) "General intellectual functioning" means performance on a standardized intelligence test that measures general cognitive ability rather than one limited facet of ability.
- (a) "Significantly subaverage general intellectual functioning" is defined as two or more standard deviations below the population mean on a standardized intelligence test. Error in test measurement requires clinical judgment for students who score near two standard deviations below the mean.
 - (b) The presence of subaverage general intellectual functioning must occur during the developmental period defined as the period of time between conception and the 18th birthday.
- (3) Deficits in adaptive behavior is defined as significant limitations in the student's effectiveness in meeting the standards of personal independence, interpersonal communication, and social responsibility expected for the student's age/grade peers and cultural group as measured by standardized instruments or professionally recognized scales.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3013 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING DEAF-BLINDNESS

- (1) The student may be identified as having deaf-blindness if documentation supports that the student:
- (a) meets the criteria in ARM 10.16.3022 for visual impairment;
 - (b) meets the criteria in ARM 10.16.3020 for speech-language impairment;
 - (c) meets the criteria in ARM 10.16.3016 for hearing impairment or in ARM 10.16.3014 for deafness; and

(d) is experiencing severe delays in communication and other developmental and educational skills such that services designed solely for students with deafness or for students with blindness would not meet the student's educational needs.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3014 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING DEAFNESS

(1) The student may be identified as having deafness if an audiological report documents that hearing loss is so severe that the student is impaired in processing linguistic information, with or without amplification, to the extent that prevents the auditory channel from being the primary mode of learning speech and language.

(2) The student's educational performance is adversely affected as documented by specific examples. The results and analysis of a current assessment of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually is required to show an impairment in processing linguistic information prior to identification.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3015 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING EMOTIONAL DISTURBANCE

(1) The student may be identified as having emotional disturbance if a condition which includes one or more of the following characteristics is present:

- (a) an inability to build or maintain satisfactory relationships with peers and teachers;
- (b) inappropriate types of behavior or feelings under normal circumstances including behaviors which are psychotic or bizarre in nature or behaviors which are atypical and for which no observable reason exists;
- (c) a general, pervasive mood of unhappiness or depression including major depression and dysthymia but excluding normal grief reactions;
- (d) a tendency to develop physical symptoms or fears associated with personal or school problems including separation anxiety, avoidant disorder and overanxious disorder;
- (e) schizophrenia.

(2) For each of the conditions in (1), the condition shall meet the criteria of having been present to a marked degree, over a long period of time and adversely affecting the student's educational performance.

(3) The student may be identified as having emotional disturbance when:

- (a) the student has been observed in more than one setting within the educational environment; and
- (b) the local educational agency has planned and implemented one or more positive behavioral interventions specific to the individual student. Interventions shall not unnecessarily

delay appropriate identification when it can be shown through a student's social or developmental history, compiled directly from the student's parents or from records when the parents are not available, the existence of characteristics that clearly identify emotional disturbance.

(4) The student may not be identified as having emotional disturbance if delays in educational performance are primarily due to visual impairment, hearing impairment, orthopedic impairment, cognitive delay, health factors, or limited educational opportunity.

(5) Common disciplinary problems may exist in conjunction with emotional disturbance, but cannot be used as the sole criteria for determining the existence of an emotional disturbance.

(6) The term emotional disturbance does not apply to students who are socially maladjusted, unless it is determined that they meet the criteria herein for emotional disturbance.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3016 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING HEARING IMPAIRMENT

(1) The student may be identified as having a hearing impairment if an audiological report documents that the student has a permanent hearing loss in excess of 20 dB better ear average in the speech range (500, 1,000, 2,000 Hz), unaided, or has a history of fluctuating hearing loss which has interrupted the normal acquisition of speech and language and continues to adversely affect educational performance.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3017 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING ORTHOPEDIC IMPAIRMENT

(1) The student may be identified as having orthopedic impairment if:

(a) the student is diagnosed by a qualified medical practitioner as having an orthopedic impairment;

(b) the impairment is severe; and

(c) the impairment adversely affects the student's educational performance.

(2) The term orthopedic impairment includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3018 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING OTHER HEALTH IMPAIRMENT

(1) The student may be identified as having other health impairment if:

(a) the student has limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, or Tourette syndrome; and

(b) the condition adversely affects the student's educational performance.

(2) A medical diagnosis of a chronic or acute health problem is required.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00; AMD, 2007 MAR p. 678, Eff. 5/25/07.)

10.16.3019 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING SPECIFIC LEARNING DISABILITY

(1) The student may be identified as having a specific learning disability if, when provided learning experiences appropriate to the student's age or grade-level based on state approved K-12 content standards:

(a) The student does not make sufficient progress to meet age or grade level based on state approved K-12 content standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem solving.

(b) Consistent with district procedures, evaluation teams shall use either response to scientific, research based intervention under ARM 10.16.3019A or severe discrepancy under ARM 10.16.3019B when determining whether the student is not making sufficient progress toward age or grade level based on state approved K-12 content standards.

(c) The student may not be identified as having a specific learning disability if the student's significantly low rate of progress in meeting age or grade level based on state approved K-12 content standards is primarily the result of a visual, hearing, or motor impairment; cognitive delay; emotional disturbance; environmental or economic disadvantage; cultural factors; or a lack of appropriate instruction.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00; AMD, 2007 MAR p. 6778, Eff. 5/25/07.)

10.16.3019A RESPONSE TO SCIENTIFIC, RESEARCH BASED INTERVENTION IN LEARNING DISABILITY IDENTIFICATION

(1) A student may be determined to have a specific learning disability based on an insufficient response to scientific, research based interventions resulting in a low level of academic

achievement. Insufficient response to interventions occurs when, despite the implementation of the interventions over a sustained period of time, the student is not achieving adequately based on the student's age or grade level based on state approved K-12 content standards.

(a) Scientific, research based interventions are:

(i) matched to the specific needs of the student as identified through systematic, data-based processes for examining the presenting problem, including parental input, to identify instructional interventions that have a high likelihood of success;

(ii) focused on changing the instructional strategies or techniques used with the student; and

(iii) regularly monitored for student progress and correct implementation via regular and frequent data collection, and analysis and modification of interventions as necessary based on data analysis.

(b) In determining the response to scientific, research based interventions, the evaluation team must consider data regarding how appropriately the intervention was delivered by qualified personnel, as well as, data comparing the student's rate of learning and current levels of performance with the student's initial levels of performance.

(2) A student may be determined to have a specific learning disability if the student is making sufficient response to scientific, research based interventions and the level of intervention necessary to sustain the response can only be provided through special education services.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 2007 MAR p. 678, Eff. 5/25/07.)

10.16.3019B SEVERE DISCREPANCY IN LEARNING DISABILITY IDENTIFICATION

(1) A student may be determined to have a specific learning disability based on a severe discrepancy between the student's intellectual ability and achievement in one or more of the areas listed in ARM 10.16.3019.

(a) A severe discrepancy is defined as a 50 percent or higher probability of a two standard deviation discrepancy between general cognitive ability and achievement in one or more of the areas identified in ARM 10.16.3019 when adjusted for regression to the population mean.

(b) Error in test measurement requires judgment for students who score near two standard deviations below the population mean. When exercising this judgment, consideration of additional information, such as classroom performance relative to the student's performance on norm referenced tests, shall be used as the basis for determining the severe discrepancy.

(c) Alternatives to norm referenced tests, such as curriculum-based assessments, shall be utilized to determine severe discrepancy whenever cultural factors, test conditions, size of test item sampling for the student's age, or other factors render standardized assessment results invalid. When utilizing alternative assessment procedures, a determination must still be made that a discrepancy between ability and achievement exists at a level of severity similar in size to the discrepancy that would have otherwise been found in (1)(a).

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 2007 MAR p. 678, Eff. 5/25/07.)

10.16.3020 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING SPEECH-LANGUAGE IMPAIRMENT

(1) The student may be identified as having a speech-language impairment if the student has a significant deviation in speech such as fluency, articulation or voice, or in the ability to decode or encode oral language which involves phonology, morphology, semantics or pragmatics or a combination thereof.

(a) The student has a significant deviation in oral performance if the student's performance on standardized test is two standard deviations below the population mean, or between 1.5 and two standard deviations below the population mean, and there is documented evidence over a six month period prior to the current evaluation of no improvement in the speech-language performance of the student even with regular classroom interventions.

(b) For articulation, a significant deviation is consistent articulation errors persisting one year beyond the highest age when 90 percent of the students have acquired the sounds based upon specific developmental norms.

(c) If norm referenced procedures are not used, alternative assessment procedures shall substantiate a significant deviation from the norm.

(2) The student may be identified as having a speech-language impairment only when documentation of the student's interpersonal communication effectiveness in a variety of educational settings by the teacher, parent, speech-language pathologist, and others as appropriate supports the adverse educational effect of the speech-language impairment or oral communication in a classroom or school setting.

(3) The student may not be identified as having a speech-language impairment if the speech or language problems primarily result from environmental or cultural factors.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD, 1999 MAR p. 69, Eff. 1/15/99; TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3021 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING TRAUMATIC BRAIN INJURY

(1) The student may be identified as having traumatic brain injury if the student has an acquired injury to the brain caused by external physical force which adversely affects the student's functional or psychosocial ability or both and the student's ability to learn or participate in the local educational agency's education program.

(2) The term traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical function; information processing; and speech.

(3) The student may not be identified as having a traumatic brain injury if the injury to the brain is congenital, degenerative, or caused by birth trauma.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, 20-7-414, MCA; NEW, 1999 MAR p. 69, Eff. 1/15/99; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

10.16.3022 CRITERIA FOR IDENTIFICATION OF STUDENT AS HAVING VISUAL IMPAIRMENT

(1) The student may be identified as having a visual impairment if the student has a visual acuity of 20/70 or less in the better eye with correction or field of vision which at its widest diameter subtends an angle of no greater than 20 degrees in the better eye with correction.

(History: 20-7-402, MCA; IMP, 20-7-401, 20-7-403, MCA; NEW, 1993 MAR p. 1913, Eff. 8/13/93; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00.)

Technical Assistance guides are developed by the Division of Special Education to provide guidance to schools, parents and advocates regarding eligibility for and the implementation of services to students with disabilities under the Individuals with Disabilities Education Act, the Administrative Rules of Montana, and Montana statutes.

This document contains recommended practices and procedures that may enhance the services to children and youth with disabilities. All policy statements regarding the delivery of special education and related services are contained in the current *Montana State Plan Under the Individuals with Disabilities Education Act*.